

## **REMARKS**

At the issuance of the Office Action, claims 17-40 were pending with claims 1-16 having been previously canceled. In the Office Action, the Office presents rejections for each of the remaining claims. In this response Applicant has canceled without prejudice claims 19, 21, 25, 27, 28 and 38. As such, claims 17 - 37 and 39 - 40 remain pending in the application.

Applicant has amended claims 17, 20, 22, 23, 26, 36 and 39 in this response, and presents arguments below so as to overcome the rejections set forth in the Office Action.

Applicant has also amended claim 18 to add “:” after “comprising” and a full-stop at the end of claims 22, 24, and 34.

## **Specification**

In section 1 of the Office Action the Examiner objected to the incorporation by reference in paragraph 0051 of the specification because the referenced article was not found in the IEEE website. Paragraph 0051 has been replaced with a new paragraph that indicates that the article as been “submitted to IEEE transactions on Biomedical Engineering, 2000”. It is pointed out by the applicant that a similar reference to this article is found in issued United States Patent Number 7,179,228 and as such, the applicant respectfully submits that this amendment should satisfy the Office’s objections. Further, the applicant is submitting a copy of the article along with this response.

## **Claim Rejections – 35 USC 112**

In section 2 of the Office Action, claims 20 and 38 were rejected under 35 USC 112. The Examiner claims that the term “USB dongle” was not described in the specifications. The Examiner further claims the US design patent # D462,689 or

D468,090, the contents of which were incorporated to the specifications by reference, does not describe a “USB dongle”.

Applicant has amended claims 20 to overcome the rejections by replacing the term “a USB dongle” with the term “connected to a Universal Serial Bus (USB) connector”, in accordance with Para 0013 o the specifications. Applicant canceled claim 38 without prejudice. As such, the applicant respectfully submits that the rejections under 35 USC 112 have been overcome.

### **Claim Rejections – 35 USC § 102**

The Office has rejected claims 17-19, 21-23 29 and 30 under 35 U.S.C 102(e) as being anticipated by United States Patent Application Publication 2002/0118112 filed in the name of Lang (Lang1). The applicant respectfully submits that the amendments presented above with respect to claims 17 and 36 render this rejection as moot.

As presented above, claim 17 is amended by incorporating limitations from claims 19, 21, 25 and 28. In addition, claim 36 is amended by incorporating limitations from claims 19, 21, 25 and 28. Because both of these amendments result in adding limitations to the claims that were not rejected under 30 USC 102(e) based on the Lang1 reference, the applicant respectfully submits that these rejections have been traversed.

### **Claim Rejections – 35 USC § 103**

The Office has rejected claims 20, 24-27 and 35-40 Under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of United States Patent Application Publication 2002/0078367 filed in the name of Lang et al. (Lang2). Further, the Office has rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of Lang2 and further in view of United States Patent Number 6,985,078 awarded to Suzuki et al.

The applicant respectfully submits that the Office's observations based on Lang1 in view of Lang2 and Suzuki, are overreaching and make unwarranted assumptions with regards to one of ordinary skill in the art. The applicant more specifically submits that the Office is alleging that one of ordinary skill in the art must follow the following logic to start with Lang1, Lang2 and Suzuki and arrive at the present invention:

Step 1) Consider Lang1's wireless communication unit 20 (that is a cellular telephone) to be a computer, and consider Lang1's receiver/transmitter 18 to be a wireless gateway, thus reversing their roles.

Step 2) Add a USB port both the wireless communication unit 20 and the receiver/transmitter 18, and shape the receiver/transmitter 18 as USB connector, so that it can resemble Lang2's portable device 10.

It is stressed that there is not a single commonality between Lang1's receiver/transmitter 18 and Lang2's portable device 10 other than this newly added USB port, which is proposed by the Applicant.

Step 3) Combine Lang2's portable device 10 with Lang1's receiver/transmitter 18 so that Lang1's receiver/transmitter 18 can have the memory and processor of Lang2's portable device 10.

Step 4) Transfer software functionality from Lang1's wireless communication unit 20 to the newly created memory of Lang1's receiver/transmitter 18.

Obviously Lang1 does not teach any motivation, need or advantage for transferring functionality from the wireless communication unit 20 to the receiver/transmitter 18.

Furthermore, Lang2 teaches that "the memory 18 will emulate a file system on a memory device, such as a hard disk drive, accessible by the host 12 wherein at least certain aspects of the software 20 are capable of running or executing on the host 12." It is evident that Lang2 does not suggest or hint that the host 12 would delegate its functionality to the memory 18 and thus become a peripheral of the portable device 10 (Lang2 para 23).

Step 5) Transfer user personal data from Lang1's central computer 60 to the newly created memory of Lang1's receiver/transmitter 18.

Lang1's wireless communication unit 20 can download the data from the central computer 60 at any time and therefore there is no motivation to protect data by moving the data to the portable storage in receiver/transmitter 18.

Step 6) Transfer medical analysis and user alarm software from Suzuki's wearable life support apparatus to the memory of the wireless gateway (Lang1's receiver/transmitter 18) to be processed by the computer (Lang1's wireless communication unit 20).

This is useless for both Lang1 and Suzuki, since Suzuki processes the medical information within the wearable life support apparatus and Lang1 processes the medical information in the central computer 60.

Applicant submits that Lang1 is useless without the central computer 60, and Suzuki requires the computing device to be integrated into the wearable life support apparatus. However, the present invention enables the measuring device to communicate with any processing device equipped with a USB port by providing the processing device the software and data to analyze the measured physiological information and alert the user.

Applicant further submits that it is evident that Lang1's receiver/transmitter 18, with or without Lang2's memory and processor, and with or without Suzuki, is incapable of "processing the received physiological data and transferring the processed physiological data to the computer" as stated in claim 36.

Applicant therefore submits that claims 17 and 36 are not anticipated by the cited prior art, and the cited references do not render them as obvious. As such, the applicant respectfully request the Office to allow these claims. .

Further, because claims 18, 20, 22-24, 26, 29 30-35, 37, 39 and 40, depend either directly or indirectly from claims 17 or 36, it is further submitted that these claims are also allowable.

Applicant also amended claim 39 to include the limit that "the processing unit is operative to process the physiological measurements into medical information" as supported in paragraph 73.

### **Conclusion**

In light of the above, is the applicant respectfully submits that amended Claim 17 and Claims 18, 20, 22-24, 26, 29-35 dependent thereon, as well as amended claim 36 and claims 37, 39 and 40 dependent thereon, are not anticipated by the cited prior art, are not rendered obvious by the cited art and are, therefore, allowable.

All of the issues raised by the Examiner have been dealt with. In view of the foregoing, it is submitted that all the claims now pending in the application are

allowable over the cited reference. An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,

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